

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

ROBERTINO VASQUEZ,	:	
	:	
Plaintiff,	:	CIVIL NO. 1:12-CV-0597
	:	
v.	:	Hon. John E. Jones III
	:	
UNICOR, <i>et al.</i> ,	:	
	:	
Defendants.	:	

**MEMORANDUM**

April 3, 2012

**THE BACKGROUND OF THIS MEMORANDUM IS AS FOLLOWS:**

On February 27, 2012, Plaintiff Robertino Vasquez (“Plaintiff” or “Vasquez”), an inmate presently confined at the Low Security Correctional Institution Allenwood (“LSCI Allenwood”) in White Deer, Pennsylvania, filed a *Bivens*<sup>1</sup>-styled Complaint in which he also raises a tort claim against the United States pursuant to the Federal Tort Claims Act (“FTCA”), 28 U.S.C. §§ 1346, 2671-2680. (*Vasquez v. UNICOR*, Civil No. 1:12-CV-0366, Doc. 1.) The Certificate of Service attached to the Complaint indicates that Vasquez provided it to prison officials for mailing on February 15, 2012. (*Id.*, Doc. 1 at 7.) Named as Defendants are UNICOR Prison Industries; Floyd

---

<sup>1</sup>*Bivens v. Six Unknown Named Agents of the Fed. Bureau of Narcotics*, 403 U.S. 388 (1971).

J. Dobson, Factory Manager at LSCI Allenwood; T. Lieby, Shift Foreman at LSCI Allenwood; Corrections Officer Recla, Safety Officer at LSCI Allenwood; and the United States of America. (*Id.*) Vasquez raises claims based upon injuries he sustained on May 19, 2011 while cleaning a Cold Press Glue Machine that he was operating in his capacity as a worker for UNICOR at LSCI Allenwood. (*Id.*) By Order dated March 16, 2012, we directed service of the Complaint on Defendants. (*Id.*, Doc. 9.)

On April 2, 2012, the Clerk of Court received from Vasquez a *Bivens*-styled Complaint and opened a new action as captioned above. The Complaint and accompanying Certificate of Service were dated February 8, 2012, but the dates were crossed out and replaced with the date March 28, 2012, and the changes were initialed by Vasquez. (*See* Doc. 1 at 21, 22.) Vasquez again raises claims stemming from the injuries he sustained on May 19, 2011, but provides additional allegations regarding his claims against each Defendant. Vasquez again names UNICOR, Dobson, Lieby, and Recla as Defendants, but also names the following new Defendants: Harrell Watts, Federal Bureau of Prisons (“BOP”) General Counsel for National Inmate Appeals; J.L. Norwoodm Regional Director of the BOP; LSCI Wardens Scism and Strada; Dr. Jay Miller; D. Spotts, A.H.S.A.; and Peggy Moore, Physician Assistant. In

addition, while Vasquez states at the outset of the Complaint that he seeks relief under 28 U.S.C. § 1346, his newly filed Complaint does not name the United States as a Defendant, and he does not include a claim for relief under the FTCA.

Because Vasquez's more recently filed Complaint is based upon the same events as his originally filed Complaint, and differs in his naming of Defendants, his statement of allegations, and in his statement of his claims, it appears more likely that Vasquez intended for his filing to be an amended complaint rather than an original pleading initiating a new civil rights action. Accordingly, we shall construe the Complaint filed at the above-captioned docket number as an amended complaint in the already pending action at Civil No. 1:12-CV-0366 and shall direct the Clerk of Court to file it accordingly and close the instant action.

An appropriate Order will enter on today's date.